

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

LARRY NELSON,

Plaintiff,

v.

HARTFORD LIFE AND ACCIDENT
INSURANCE COMPANY,

Defendant.

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Case No. 2:17-cv-226

NOTICE OF REMOVAL

**TO: THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT
OF TEXAS, CORPUS CHRISTI DIVISION**

Defendant, Hartford Life and Accident Insurance Company (“Defendant”), respectfully notifies this Court of the removal of the above-styled cause from the 94th Judicial District Court of Nueces County, Texas to the United States District Court for the Southern District of Texas, Corpus Christi Division, pursuant to 28 U.S.C. §1332 and §1441, and says as follows:

I.

This action is being removed to federal court based upon diversity of citizenship under 28 U.S.C. §1332. Defendant intends to conduct discovery to determine if this matter is governed by the Employee Retirement Income Security Act of 1974, as amended, and therefore reserves the right to claim jurisdiction based on ERISA and federal question.

II.

On or about May 26, 2017, Plaintiff filed in the state court the above-entitled civil action, bearing Cause No. 2017DCV-2545-C in the records and files of that Court.

III.

The aforesaid state court action is a suit of a wholly civil nature of which the United States District Court for the Southern District of Texas, Corpus Christi Division, has original jurisdiction under 28 U.S.C. §1332 and is one that may be removed by petitioner pursuant to 28 U.S.C. §1441.

IV.

This Court has subject matter jurisdiction over this matter because this is an action between citizens of different states and/or is an action between a citizen of a state and a citizen or subject of a foreign state and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiff is currently a citizen of the State of Minnesota, but was a citizen of the State of Texas at the time of the events described in Plaintiff's Original Petition. Defendant is a corporation organized pursuant to the laws of the State of Connecticut with its principal place of business in the State of Connecticut. Among other things, Plaintiff's complaint seeks disability insurance benefits in excess of \$75,000; alleged mental anguish and emotional distress, punitive or exemplary , and statutory damages; attorney's fees; and interest of 18 percent per year. Plaintiff specifically claims that he seeks monetary relief of over \$200,000. *See*, Original Petition at ¶ 4. Thus, although Defendant denies that Plaintiff is entitled to any remedy herein, much less the remedies sought in his petition, the amount sought by Plaintiff in his petition and put at issue in this case exceeds the statutory minimum of \$75,000.00.

V.

This action is therefore one of which the United States District Court for the Southern District of Texas, Corpus Christi Division, has diversity of citizenship jurisdiction under 28 U.S.C. §1332 and this action may be removed to this Court by petitioner pursuant to 28 U.S.C. §1441.

Nueces County, Texas is within the venue of the Corpus Christi Division of the United States District Court for the Southern District of Texas.

VI.

This petition is being filed pursuant to 28 U.S.C. § 1446 within thirty (30) days of service of the initial pleading in which a removable claim is asserted, and is removable in that:

- a. The time for filing this petition under 28 U.S.C. § 1446 has not expired; and
- b. The parties are citizens of different states and/or this is an action between the citizen of a state and a citizen or subject of a foreign state and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

VII.

Therefore, Defendant files this Notice of Removal of this action from the 94th Judicial District Court of Nueces County, Texas, in which it is now pending, to the United States District Court for the Southern District of Texas, Corpus Christi Division. There are attached to this notice, marked Exhibit "A" and incorporated by reference, true and correct copies of all process, pleadings, and orders served upon Defendant in this action.

VIII.

Also attached to this notice, marked as Exhibit "B" and incorporated by reference, is a true and correct copy of the Notice of Removal that will be filed (without exhibits) with the District Court of Nueces County, Texas.

WHEREFORE, Defendant notifies this Court of the removal of this action from the 94th Judicial District Court of Nueces County, Texas to the United States District Court for the Southern District of Texas, Corpus Christi Division.

Respectfully submitted,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *NOTICE OF REMOVAL* was filed electronically on June 30, 2017 and that service of same on all counsel of record will be made by the Court's CM/ECF system as follows:

None

I further certify that service was made on the following non-registered ECF counsel of record by placing copies of the foregoing *NOTICE OF REMOVAL* in envelopes properly addressed to them and with sufficient first-class postage pre-paid:

James C. Plummer, Esq.
Amar Raval, Esq.
Berg Plummer Johnson & Raval
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s/ Eric P. Mathisen

Eric P. Mathisen